

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

AUG 25 1999

PATRICK FISHER
Clerk

JESSIE CAREY,

Plaintiff-Appellant,

v.

UNITED PARCEL SERVICE,

Defendant-Appellee.

No. 98-1442
(D.C. No. 97-S-644)
(D. Colo.)

ORDER AND JUDGMENT*

Before **TACHA, McKAY**, and **MURPHY**, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Plaintiff Jessie Carey, appearing pro se, appeals from the district court's grant of summary judgment in favor of defendant United Parcel Service in this action filed under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e to 2000e-17. On appeal, plaintiff challenges the district court's decision only insofar as it dismissed her claim that UPS temporarily laid her off from her position in its Collections Department in February 1992 in retaliation for filing a complaint with the Equal Employment Opportunity Commission in 1991. We exercise jurisdiction under 28 U.S.C. § 1291.

The district court held that plaintiff had not followed the procedures set forth in 42 U.S.C. § 2000e-5(e), and her retaliation claim was time-barred. Plaintiff argues on appeal that her retaliation claim had merit. Plaintiff's argument is unavailing. We have carefully reviewed the briefs and the record on appeal. We find that the appeal is frivolous, and deny plaintiff's motion for leave to proceed in forma pauperis for substantially the same reasons as those set forth in the district court's October 28, 1998 order.

The appeal is DISMISSED. The mandate shall issue forthwith.

Entered for the Court

Deanell Reece Tacha
Circuit Judge